

TouchPlay Litigation Chronology and Summary

July 9, 2008

TouchPlay Litigation Chronology

- March 6, 2006: SF 2330, a bill prohibiting the operation of monitor vending machines (TouchPlay machines), is introduced in the Iowa Senate.
- March 13, 2006: The Iowa Senate approves SF 2330 by a 40-10 vote.
- March 14, 2006: The Iowa House approves SF 2330 by a 80-18 vote.
- March 20, 2006: Governor Vilsack signs SF 2330 into law. The new law prohibits the operation of monitor vending machines 45 days after enactment, or May 4, 2006.
- April 5, 2006: Hawkeye Commodity sues the Iowa Lottery, Governor Vilsack, Kevin Techau, Thomas Miller, and Mark Schuling in Federal District Court to enjoin the implementation of SF 2330 with a complaint alleging that the ban violated various provisions of the United States and Iowa Constitutions, as well as asserting a state law breach of contract claim.
- April 12, 2006: A group of TouchPlay operators (the Siggins case) file suit in Polk county seeking to enjoin the ban of TouchPlay machines due to alleged violations of the United States and Iowa Constitutions.
- April 26, 2006: Federal District Court Judge Linda Reade denies Hawkeye Commodity's request for injunctive relief on the merits.
- May 2, 2006: Polk County Judge Glenn Pille denies the Siggins request to issue a temporary injunction.
- May 3, 2006: Polk County Judge Glenn Pille denies the Siggins emergency request for reconsideration of the injunction ruling.
- May 4, 2006: The Iowa Lottery Authority, with assistance from the TouchPlay manufacturers, shuts down all TouchPlay machines in the State.
- May 24, 2006: Hawkeye Commodity appeals Judge Reade's ruling to the Eighth Circuit Court of Appeals.

June 26, 2006: The Siggins petition is amended to add multiple claims for monetary damages, as well as a significant number of new plaintiffs.

June 26, 2006: Camden, Inc. files a lawsuit in Linn County, seeking monetary damages from the State. Camden alleges damages stemming from the TouchPlay ban on a variety of legal theories.

July 10, 2006: Royal Financial, LLC files suit in Polk County against the Iowa Lottery Authority and Lottery CEO Edward Stanek on a variety of legal theories stemming from the TouchPlay ban.

September 7, 2006: Diamond Games, Inc. moves to intervene in the Siggins lawsuit.

October 10, 2006: Howard Music LLC files suit in Scott County, seeking damages as a result of the ban on monitor vending machines.

November 14, 2006: The Iowa Lottery Authority files suit against Camden, Inc., as well as the officers of Camden, alleging a failure to turn over Lottery proceeds to the State at the end of the TouchPlay program.

December 21, 2006: Nebraska Technical Services and Greater America Distributing move to intervene in the Siggins lawsuit.

April 24, 2007: The Eighth Circuit Court of Appeals affirms Judge Linda Reade's dismissal of Hawkeye Commodity's federal court lawsuit.

May 11, 2007: The Iowa Lottery Authority files counterclaims against a number of the businesses and corporate officers in the Siggins litigation, alleging a failure to turn over Lottery proceeds to the State at the end of the TouchPlay program.

August 6, 2007: A proposed settlement in the Royal Financial lawsuit is presented to and approved by the State Appeal Board. Under the settlement, the State agreed to pay \$1,671,370.50 to Royal Financial.

October 22, 2007: A proposed settlement with plaintiff Mark Jacobs, d/b/a B&B Games, is presented to and approved by the State Appeal Board. Under the settlement, the State agreed to pay \$388,000 to Mark Jacobs, d/b/a B&B Games.

February 4, 2008: A proposed settlement with plaintiff Camden, Inc., and its principals is presented to and approved by the State Appeal Board. Under the settlement, the State agreed to pay \$1,050,000 to Camden, and \$290,000 to Greater America Distributing. The Lottery's counterclaim against Camden will be dismissed.

February 6, 2008: In the *Siggins, et al.* case, Judge Donna Paulsen continues the trial from April 21, 2008, to September 8, 2008, and sets it for a three-week jury trial.

April 10, 2008: A new case is filed in Linn County District Court by Return, LLC against the Lottery and the State (Case No. LACV 061408) alleging damages stemming from the ban of the TouchPlay program and asserting similar theories for recovery as in the other TouchPlay cases.

April 11, 2008: A new case is filed in Linn County District Court by Richard R. Ramsey against the Lottery and the State (Case No. LACV 061432) alleging damages stemming from the ban of the TouchPlay program and asserting similar theories for recovery as in the other TouchPlay cases.

April 16-18, 2008: The parties in the Siggins case participate in court-ordered mediation.

April 21, 2008: A new case is filed in Webster County District Court by Curt Green, d/b/a Green Amusement Company against the Lottery and the State (Case No. LACV 313143) alleging damages stemming from the ban of the TouchPlay program and asserting similar theories for recovery as in the other TouchPlay cases.

May 5, 2008: A new case is filed in Floyd County District Court by Red Line Vending, Inc.; Lottery Service Corp. of Iowa, Inc.; William R. Wohlers and Thomas C. Wohlers against the Lottery and the State (LACV 29076) alleging damages stemming from the ban of the TouchPlay program and asserting similar theories for recovery as in the other TouchPlay cases.

May 5, 2008: A proposed settlement with International Gamco, Inc., one plaintiff in the *Siggins, et al.* case, is presented to and approved by the State Appeal Board. Under the settlement, the State agreed to pay \$250,000 to International Gamco, and International Gamco agreed to give up all its claims and dismiss its portion of the lawsuit.

July 7, 2008: A proposed settlement with Multimedia, a manufacturer of TouchPlay machines who had been threatening to sue, is presented to and approved by the State Appeal Board. Under the settlement, the State agreed to pay \$17,500 to Multimedia, and Multimedia agreed to give up all its claims and not file a lawsuit.

July 7, 2008 A proposed settlement with Greater America Distributing, a distributor of TouchPlay machines, and Nebraska Technical Services, an operator of TouchPlay machines, is presented to and approved by the State Appeal Board. Under the Settlement, the State agreed to pay \$2,900,000. Greater America Distributing will give up all its claims, provide downstream relief from amounts owed to it from TouchPlay operators and dismiss its portion of the lawsuit. Nebraska Technical Services' GAD related debt will be forgiven, NTS will give up all its claims, and dismiss its portion of the lawsuit.

[Continue for Litigation Summary.]

TouchPlay Litigation Summary

ACTIVE

Jeffrey Siggins, et al. v. Thomas J. Vilsack, et al.
(Polk County)

This case began as a request for injunctive relief filed by a small group of TouchPlay operators, seeking to enjoin the ban of TouchPlay machines due to alleged violations of the United States and Iowa Constitutions. Polk County District Court Judge Glenn Pille denied plaintiffs' request for injunctive relief. Since that time, the suit has been modified to add claims for money damages, as well as additional allegations of breach of express contracts, implied contracts, and quasi-contracts. The Iowa Lottery Authority has counterclaimed against certain TouchPlay operators and their officers who allegedly failed to turn over Lottery proceeds at the end of the TouchPlay program.

There are now approximately 70 plaintiffs and intervenors in this suit, including TouchPlay manufacturers, distributors, and operators. The Plaintiffs and Intervenors involved in this suit controlled approximately 40% of the TouchPlay machines operated in Iowa. This suit is pending, and is scheduled to commence trial on September 8, 2008 (per February 6, 2008 Order by District Court Judge Donna Paulsen). Paulsen set the case for a three-week trial.

(Mark Jacobs, d/b/a B&B Games, one of the plaintiffs in the Siggins case, settled his claims with the State in October 2007. The settlement amount was \$388,000. International Gamco, Inc., a manufacturer of TouchPlay machines and a plaintiff-intervenor in the Siggins case, settled its claims with the State in May 2008. The settlement amount was \$250,000. Greater America Distributing, a distributor of TouchPlay machines, and Nebraska Technical Services, an operator of TouchPlay machines, settled their claims with the State in July 2008. The settlement amount was \$2,900,000.)

Howard Music v. Thomas J. Vilsack, et al.
(Scott County)

Howard Music commenced an action for damages and declaratory/injunctive relief in Scott County, suing the same defendants and asserting the same legal theories as in the Siggins case. Howard Music controlled approximately 1% of the TouchPlay machines operated in Iowa. This suit is pending, and is scheduled for trial in November 2008.

Return, LLC v. the Lottery and the State
(Linn County)

Return, LLC alleges damages stemming from the ban of the TouchPlay program and asserting similar theories for recovery as in the other TouchPlay cases.

Richard R. Ramsey v. the Lottery and the State
(Linn County)

Ramsey alleges damages stemming from the ban of the TouchPlay program and asserts similar theories for recovery as in the other TouchPlay cases.

Curt Green, d/b/a Green Amusement Company v. the Lottery and the State
(Webster County)

Green Amusement Company alleges damages stemming from the ban of the TouchPlay program and asserts similar theories for recovery as in the other TouchPlay cases.

Red Line Vending, Inc., et al. v. the Lottery and the State
(Floyd County)

Red Line Vending and the other plaintiffs allege damages stemming from the ban of the TouchPlay program and assert similar theories for recovery as in the other TouchPlay cases.

INACTIVE

Royal Financial v. Iowa Lottery Authority, et al.
(Polk County)

Royal Financial sued the Iowa Lottery Authority and Dr. Edward J. Stanek, CEO of the Iowa Lottery, with a five-count petition seeking monetary damages as a result of the prohibition on monitor vending machines. Royal Financial asserted a variety of express, implied, and quasi-contract claims. Royal Financial controlled approximately 25% of the TouchPlay machines operated in Iowa. The Attorney General's Office, with the consent of the State Appeal Board, settled this lawsuit on August 6, 2007. The State paid \$1,671,370.50 to Royal Financial.

Siggins, et al. v. Thomas J. Vilsack, et al. (re: certain plaintiffs and plaintiff-intervenors)
(Polk County)

Mark Jacobs, d/b/a B&B Games, one of the plaintiffs in the Siggins case based in Ankeny, settled his claims with the State in October 2007. The settlement amount was \$388,000. International Gamco, Inc., one of the plaintiff-intervenors in the Siggins case, settled its claims with the State in May 2008. The settlement amount was \$250,000. Greater America Distributing, a distributor of TouchPlay machines, and Nebraska Technical Services, an operator of TouchPlay machines, settled their claims with the State in July 2008. The settlement amount was \$2,900,000.

Camden v. State / State v. Camden
(Linn County)

Camden sued the State for money damages due to the prohibition on monitor vending machines, alleging violations of the state and federal constitutions, as well as claims on express, implied, and quasi-contracts. Camden controlled approximately 5% of the TouchPlay machines operated in Iowa. The Iowa Lottery Authority filed its own claim against Camden and Camden's officers, alleging Camden's failure to turn over Lottery proceeds at the end of the TouchPlay program. This matter was set to go to trial in January 2008. The Attorney General's Office, with the consent of the State Appeal Board, settled this lawsuit on February 4, 2008. The State paid \$1,050,000 to Camden, and \$290,000 to Greater America Distributing. The Lottery's counterclaim against Camden was dismissed.

Hawkeye Commodity Promotions, Inc. v. Thomas J. Vilsack, et al.

U.S. District Court, Northern District of Iowa, 432 F. Supp. 2d 822 (N.D. Iowa 2006), Eighth Circuit Court of Appeals, 486 F.3d 430 (8th Cir. 2007)

Hawkeye Commodity sued the Iowa Lottery, Governor Vilsack, Kevin Techau, Thomas Miller, and Mark Schuling to enjoin the implementation of SF 2330 with a nine-count complaint alleging that the ban violated various provisions of the United States and Iowa Constitutions, as well as asserting a state law breach of contract claim. Hawkeye Commodity controlled approximately 10% of the TouchPlay machines operated in Iowa. The District Court dismissed Hawkeye Commodity's request for injunctive relief on the merits, a decision affirmed by the Eighth Circuit Court of Appeals. Hawkeye Commodity's time for appealing this decision to the United States Supreme Court has expired.

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